

## REMARKS/ARGUMENTS

Claims 1-32, 57-85, and 89-103 are pending in this application. Claims 1, 57 and 89-91 are currently amended, although claims 89-91 are only currently amended for correcting informalities. Claims 92-103 are newly added. No new matter has been added. Support for the new claims and amendments is found at least at page 4, lines 15-23.

## CLAIM OBJECTIONS

Claims 1 and 57 have been amended to address the Examiner's concerns.

## CLAIM REJECTIONS UNDER 35 USC 102

Claims 1-12, 15-27, 30-32, 57-77, 80-85, and 89-91 are rejected under 35 USC 102(b) as being anticipated by Benati et al. (USP 5,748,764). These claims have been amended and are now allowable, because Benati does not disclose each and every element of any of these claims.

Claim 1, as amended, recites an apparatus including a red-eye filter for modifying an area within a digitized image indicative of a red-eye phenomenon based on an analysis of a subsample representation of selected regions of said digitized image wherein a degree of said subsampling is based upon complexity of calculation of the red-eye filter and on an analysis of meta-data information, *and on data obtained from the camera relating to image processing analysis of a precapture image.*

The latter feature is currently added to claim 1 and is not disclosed by Benati et al. Amended claim 57 is a method claim and is allowable for substantially the same reasons as amended claim 1. Claims 2-12, 15-27 and 30-32 are allowable as being dependent upon amended claim 1. Claims 58-77, 80-85 and 89-91 are allowable as being dependent upon amended claim 57.

### CLAIM REJECTIONS UNDER 35 USC 103

Claims 13-14 are rejected under 35 USC 103(a) as being unpatentable over the combination of Benati et al. (USP 5,748,764) and DeLuca (USP 6,407,777). Claims 13-14 depend from amended claim 1 which is allowable for the reasons set forth above, and because no combination of Benati et al. and DeLuca teaches or suggests all of the limitations of amended claim 1, particularly the feature of basing a degree of subsampling on data obtained from the camera relating to image processing analysis of a precapture image.

Claims 28 and 78 are rejected under 35 USC 103(a) as being unpatentable over the combination of Benati et al. (USP 5,748,764) and Nicponski (USP 5,974,189). Claims 28 and 78 depend respectively from amended claims 1 and 57 which are allowable for the reasons set forth above, and because no combination of Benati et al. and Nicponski teaches or suggests all of the limitations of either of amended claims 1 nor 57, particularly the feature of basing a degree of subsampling on data obtained from the camera relating to image processing analysis of a precapture image.

Claims 29 and 79 are rejected under 35 USC 103(a) as being unpatentable over the combination of Benati et al. (USP 5,748,764) and Naqvi et al. (USP 5,847,714). Claims 29 and 79 depend respectively from amended claims 1 and 57 which are allowable for the reasons set forth above, and because no combination of Benati et al. and Naqvi et al. teaches or suggests all of the limitations of either of amended claims 1 nor 57, particularly the feature of basing a degree of subsampling on data obtained from the camera relating to image processing analysis of a precapture image.

### NEW CLAIMS

All of new claims 92-97 are allowable as being dependent from amended claim 1 which is allowable for the reasons set forth above. All of new claims 98-103 are allowable as being dependent from amended claim 57.

It is submitted that the application is now in condition for allowance. If there are further questions or concerns, the Examiner is respectfully invited to call the undersigned attorney at 415-203-2782.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to **Deposit Account No. 50-4399**.

Respectfully submitted,

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